

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

Docket No.: 07 Cr. 329
(SHS)

**DECLARATION OF
JONATHAN MARKS**

ELVIS FUENTES,

Defendant.
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JONATHAN MARKS, an attorney duly admitted to the bar of this Court, declares, under penalty of perjury, as follows:

1. I am counsel to Elvis Fuentes and submit this declaration, upon information and belief, in support of a motion to suppress physical evidence seized from defendant's apartment on March 20, 2007. The information set forth below is based on my review of the complaint and the annexed affidavits of Elvis Fuentes and Veronica Vega.
2. The complaint states that the agents obtained consent before searching the apartment. As shown in the attached affidavits of the defendant and Veronica Vega, on information and belief, this is incorrect. The defendant never consented to the search; Veronica Vega consented after the search had already yielded the seized items and solely for the purpose of permitting the agents to search further. Moreover, the search was conducted without a warrant. None of the seized items was in plain view. They were in a closed dresser drawer, a locked safe, and a closed closet.
3. The foregoing is true and correct to the best of my knowledge.

WHEREFORE, I respectfully request that a hearing be held to determine whether or not the physical evidence should be suppressed.

Dated: New York, NY
May 8, 2007


JONATHAN MARKS (JM-9696)